



American Insurance Association

1130 Connecticut Ave. NW

Suite 1000

Washington, DC 20036

202-828-7100

Fax 202-293-1210

www.aiaa.org

July 19, 2002

Chief of Records
Office of Foreign Assets Control
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

RE: **Proposed Rule Regarding Disclosure of Civil Penalties Information**

To Whom It May Concern:

On behalf of the American Insurance Association (AIA) I am writing to offer our comments regarding the Office of Foreign Assets Control (OFAC) proposed rule concerning the disclosure of **certain civil** penalties information. **The AIA is a national trade association representing over 400 companies writing property and casualty insurance in every state and jurisdiction of the United States. The purposes of AIA are to promote the economic, legislative, and public standing of its members; to provide a forum for discussion of policy problems of common concern to its members and the insurance industry; to keep members informed of regulatory and legislative developments; and to serve the public interest through appropriate activities including the promotion of safety and security of persons and property. AIA is headquartered in Washington, D.C., maintains seven regional offices, and retains legislative counsel in every state.**

The **proposed rule would allow** the Department of the Treasury to make public the **following** civil penalties information on a periodic **basis**: (1) **the name** of the entity involved; (2) the sanctions program involved; (3) a brief **description** of the violation or **alleged** violation; and (4) the amount **of** the **penalty imposed** or amount of **agreed** settlement. **Because this information is already available to the public through the Freedom of Information Act, we do not see the need or benefit in publishing the information in the Federal Register and/or on the OFAC website. Those who want or need access to this information are already able to access the information through normal channels.**

However, if you decide that such information must be made available to the public electronically on a regular basis, we request the following information be

BERNARD L. HENGESBAUGH
Chairman

ROBERT P. RESTREPO, JR.
Chairman Elect

DAVID B. MATHIS
Vice Chairman

JAY S. FISHMAN
Vice Chairman

ROBERT E. VAGLEY
President

included in the list to avoid misleading, inappropriate, or detrimental practices to the business environment:

- Whether or not the violation is self-reported
- Violation date
- Settlement date
- Transaction type (e.g. premium/claims)
- Specific name of the entity or insurance company rather than the group or holding company

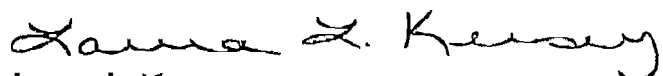
In addition, we request clarification on three items in the proposal. First, in the Background section under "Pending Proceedings," the proposal states that as a matter of policy, OFAC does not publicly comment on pending enforcement and civil penalties proceedings. OFAC plans to make public the information described in the proposed rule only after the conclusion of any such proceedings. However, sections 501.805(d)(i)(C) and 501.805(d)(ii)(C) state that OFAC shall make available to the public descriptions of the violations or *alleged* violations. The reference to "alleged violations" indicates that these proceedings have not concluded, and therefore seems to violate OFAC's policy of not publicly commenting on pending proceedings. We believe it is inappropriate to publish alleged violations, either electronically or in response to a Freedom of Information Act request. It is impossible to undo the substantial harm that businesses would suffer as the result of reporting unsubstantiated or unfounded allegations, even if a retraction was reported at a later date.

Second, section 501.805(d)(i)(D) states that OFAC shall make available to the public the amount of the penalty imposed or the amount of the agreed settlement. We want to clarify that the intent of this section is that OFAC will not disclose the amount of the proposed penalty if it differs from the amount of an agreed settlement.

Third, section 501.805(d)(iii) states that OFAC may release additional information concerning a particular civil penalties proceeding. We respectfully request an explanation and examples of what additional information may be released regarding a particular civil penalties proceeding.

We appreciate the opportunity to offer these comments. Please contact me at 202-828-7485 or lkersey@aiadc.org if you require additional information.

Respectfully submitted,



Laura L. Kersey
Counsel

American Insurance Association